

Minutes
INDIANA BOARD OF FIREFIGHTING
PERSONNEL STANDARDS AND EDUCATION MEETING

June 21, 2014 9am
7925 E 160th St
Noblesville IN 46062

- A MEETING CALLED TO ORDER 9am
- B. ROLL CALL

Present

Thomas Hanify
Eric Gentry
Chris Johnson
Rob Lund
Greg Wyant
James Greeson

Absent

Joe Romero
Eric Dreiman
John "Bull" Smith

John Buckman stated that he and the Marshal met with Director Hill and then John met with Allison Karns yesterday, our attorney, this is what we have to do to change the rules:

- Cannot cost money or it
- Saves lives, improves efficiency,

We have a chance of getting rules updated. We have permission to at least try to get 3-5 things updated. Rule changes are always a challenge.

Greg Wyant: our goals today are to decide on some issues and to simply discuss other items:

AGENDA

1. Wyant- Board Meetings Miscellaneous:

- a. Public comments will allow two minutes, but must come to podium and identify name and Dept. and the community they reside in.

John Smith is going to be help by being our official time keeper, in most cases, this is not an issue, but there have been times where a subject is talked about for a long time, and in many cases, the same thing keeps getting said repeatedly.

- b. Board members please review agenda before meeting and establish your thoughts on an agenda item prior to the meeting. Call Chairman if questions about an item.
- c. Staff meetings to review agenda will be attended by Board Chair. I feel like this has helped me get a heads up on some of these and this is working well.
- d. Creation of a repository or non-rule policy for present and future board members. This is for consistency of rulings and application of IAC 655.

2. Wyant/Snyder-Distinguish between a variance (IC 22-14-2-7), reciprocity (IAC 655 1-1-9) and a Challenge. (See backup item 2)

Challenge does not exist legally. The rule text does not talk about challenge. The rules explains that you can apply for a variance or reciprocity on the basis that you have a certification or license that are substantially similar to the Boards. What the Board has allowed is for people to take a test without a class. That is what a challenge exam is. EMS does not allow testing without a course. In 1996, the Board decided to allow this.

Variance =you are asking for an exception to the rule

Reciprocity =you have this cert and you want to trade it for that cert

Challenge = I think I can pass the test without taking a class

The board does not mandate that you take a course in order to take a test.

If you used to be an industrial safety officer at the gravel pit and you think you know enough to pass the tests then you can challenge the testing.

In some of the newer classes, practical skills were taken from the skills and put in the class room portion as exercises. Things that you would need a group of people to do, not just 1 person. So if they do not take the class, they are not completing all the skills.

There are issues if they challenge the exam/skills, they need to find a way to complete ALL skills. In some of these, there is no way to challenge the skills because it does call for a group to do them.

3. Wyant/State Staff- Current interpretation of IAC 655 language for the Fire Officer certifications are our rules consistent with NFPA? How do we apply this rule? (See backup item 3)

In a variance request in Martinsville, an individual asked for a variance for Fire Officer I. He had an instructor I but allowed it to expire. My (Wyant) interpretation of the NFPA is that you must be an instructor I because if you are not, how do you meet the criteria of instructor I? I voted that he had to go back and get his instructor I and then we would grant his Fire Officer I.

How do you determine that requirements have been met if they do not hold a valid certification? The problem is that if you are a current instructor I, the Board knows you meet the requirements, but if you allowed your instructor I to lapse, then how do we know that you meet the requirements?

You should be able to just get the education and not go for certification in order to meet the requirements

If you can meet the requirements and you have them documented, submit that with the variance request.

Non Rule Policy:

The Board interprets NFPA 1021 to mean that you must currently be certified as an instructor I, in order to be Fire Officer I. But if you are filing for a variance, you must submit the documentation showing that you meet the requirements if you are not certified as instructor I. Right now for Fire Officer III you must be an Instructor II. In the new NFPA standard, this is no longer required.

4. Wyant/Snyder- ADA accommodations. (See backup item 4 and Appendices A and B)

The Board needs to establish a policy for reasonable accommodations for those that are requesting reasonable accommodations. There needs to be a path for a way for a person to request it. Surrounding states have an application that they fill out and their doctor has to submit and sign off on it. An example: I am dyslexic; I can read atlevel; I can read but at this level.

When this is granted, what rule address this? Are they asking for a variance for a written test or are they asking for variance for the skills test, this needs to be decided and then the Board needs to decide what an essential function of the job is. The Board decided in the past that some reading ability is essential to the job. The Board decided the last time that Mandatory, Hazmat Awareness, Hazmat Operations, Technical Rescue Awareness, and Firefighter I/II would be accommodated with proper documentation.

The first issue for the Board is that reading is an essential part of the job.

Surrounding states have a form and what they ask is bare minimum but we need a summary from a physician. We do not need the complete medical file, just a short summary attesting to the condition. We will put together an application for reasonable accommodation and staff will submit this to the Board and this will be a starting point.

There are some that need complete silence when testing; some need more time to test; we need to create a policy on the type that has been submitted and handle the rest on a case by case basis.

5. Wyant/Buckman-Teachers license versus teachers certification. Will we continue to grant Instructor 1 for a valid State of Indiana teachers license provided the applicant passes the Board rules test (Referred to in IAC 655 as “reciprocity test”).

This has been resolved to some extent. DOE states that a certificate is the same thing as a license. There is another Teachers certification that specifies substitute teacher. These would not qualify for instructor certification.

6. Buckman-Primary Instructor for Instructor 1. According to John Buckman the EMS Primary Instructor (PI) does meet all of the NFPA 1041 requirements of Instructor 1. Is the board comfortable allowing these assuming the applicant passes the “Indiana Rules test?” This appears to be in compliance with a Reciprocity request.

This would not be a reciprocity issue. Due to the conditions attached, instructor reciprocity test, this should be handled with variances. Staff was asked to change the name of the test to a rules test.

ILEA, we do not do reciprocity for Instructor II/III but providing they pass Instructor reciprocity test we would grant Instructor I.

7. Buckman-Primary Instructor for Instructor 2/3. Historically PI falls short of the requirements of Instructor 2/3.

The primary instructor curriculum does not meet the specific requirements for Instructor III. If we are able to separate the Instructor II/III certification into 2 separate categories the PI curriculum would be more closely in compliance with Instructor II.

The biggest difference between the 2 instructor programs is in Analysis and Evaluation section. The PI program does not have students complete a training needs assessment nor supervise a high hazard training event. PI doesn’t actually have a high hazard event as defined in the current Instructor reference book. There is a rather large section on evaluation and evaluation processes that I don't see being included in the PI curriculum.

8. Buckman- Require course outlines to be submitted/ good for 2 years

If the Board were to implement a program where syllabus/outlines are submitted by the lead instructor for review and validation the proposal would be that this would be valid for 2 years or until the next NFPA standard is updated for that particular standard.

Snyder: This would require a rule change. This is about quality and consistency. Staff gives guidance and most people are ok with this. We ask for authorization to have them submit a syllabus to the Board for approval. Greg stated that there are a lot of instructors in the state that are good and teach what they are supposed to teach. I don't see anything wrong with you (staff) creating a syllabus for everyone and they can add to it, but they need to teach the syllabus. If this requires a rule change, then it requires a rule change. This requires a rule change because you cannot compel them to use it with a rule.

9. Buckman-Require use of the planning template.

The success of the planning template is beyond expectations. The reality is the lead instructor does not have to use the template as a guide. The templates are all encompassing and include enough information to assist the lead instructor in developing a course that is consistently delivered throughout the State in a similar manner.

10. Buckman-Consider mentoring program for instructors

There is much to be learned about the art of teaching. We issue certification to the individual and they are then released to the field without any formal support system. There is no follow up with the Instructor to see if they are active or successful in their initial contact in delivering course materials.

I would propose a 12 hour mentoring program. During those 12 hours the Instructor would have another instructor present who would do an evaluation on the instructor and submit those evaluations to the Board and certification would be issued.

There is currently no evaluation instrument in development.

EMS requires you to teach 100 hours supervised by a PI. I am not suggesting this, but we need something because all they do is a 5-15 minute presentation and we send them out to teach.

We need 12-24 hours of supervision before we let them loose. Chris Johnson asked if they could submit a video of them so that they could critic themselves. Tom Hanify stated that if we require this then it should be mentoring, some easy criteria. This could be a tremendous burden on some places by requiring this program. We could suggest a mentoring program to start with.

11. Buckman-NFPA Rules update

It is not a secret that we need to update our rules to the current NFPA standards. The Board has emergency rule making authority. Marshal Greeson asked why we cannot have the rules read “current standard”. Mara Snyder stated that the AG office stated that this is a law that you cannot do without legislative authority. You need a statute that states “the board shall adopt the current standard”. Under the emergency rule making authority, this can be done in 5-6 months.

John Buckman asked if we could move forward with our NFPA. We are several years behind in this and we need to get it done. We are having issues with books no longer available to the older standards so we have to move forward with updating these.

12. Goble -Definition of a training entity clarified. Under our rules as long as I follow the board rules, my kitchen can be a training entity.

There was a proctor that was certified as a First Class FF. He was proctoring an Instructor I test. According to the rules, his Fire Dept. held classes; they upheld the Board rules, so they were classified as a training entity. The proctor was a member of this FD so he is eligible to proctor tests. We do not know if this dept. is even big enough to have a class room, much less the equipment to put on a class or access to the equipment. Rules are very broad in the definition of a training entity. Staff would like them tightened up a little. You must have a class room, equipment or access to the equipment, training tools, etc in order to be eligible as a training entity.

Snyder: This requires a rule change because it narrows the rule that the Board has adopted. I recommend that it be put into the list of proposed rule changes for further consideration.

Dave Probo stated that you can be a janitor at a training facility and proctor a test.

Staff would like more definition of a proctor. We have husband, wives, mothers, and fathers all proctoring exams for family. 655 IAC 1-1-13 add another condition.

13. Goble – paper test rules apply to on line testing

The argument we get is that since they are not mailing anything back to us, the 7 day return does not apply. The rules do not give a deadline for on line testing and some believe and argue that there is no time limit on an on-line test. Right now we follow the only rules that we have. If the test is not taken within 7 days of the scheduled test date we cancel the test id. Mara Snyder stated that it would take a rule change to remove the word written from the directions.

14. Wyant/Buckman-Consider approval of standard sanctions for rule violations or “lying” by Fire Service members regarding certifications.

Snyder: My concern is that this could reduce the review of specific factual situations that could/should result in differences from the “standard sanctions”.

We have had to sanction a few in the last few years, cheating, lying, forging; not many but a few. We have peer review committee that looks at this stuff. We are suspending them. No action was taken on this issue.

15. Wyant-Establish a Board position for military activation and subsequent certification lapses (EMS allows 120 days grace after separation from the military)
No action taken at this time.

16. Wyant/Snyder/Others-Seventeen year olds testing. (See backup item 5)

One of the things that keeps getting brought up is that some want to be allowed to test prior to their 18th birthday. According to Mara Snyder, what they should be asking is to allow for the skills to be accepted for a longer period of time. That is the issue for the Board. A footnote for the Board, is that I talked with IOSHA and child labor and neither address the issue of this testing. There is no federal or state law that states if a 17 year old can go up on a roof and cut a hole in it. They are not regulated for testing purposes. To the extent that the Board had a concern about that, there is no law that addresses it. The issue for the Board is if a 17 year old that completes the skills, can the skills be good for a year instead of 180 days, so that they can get certification at 18. That is the issue. It is not how old they were when they took the test, it is can they get the results to last longer than 6 months.

Tom Hanify asked why they would need the results to last longer than 6 months

If a student tests at age 17 and 1 month, they would need the results to last 11 months instead of 6 months so that they would be valid on their 18th birthday.

Greg Wyant explained that according to our rules, you can test at 15 years of age. There is nothing in our rules stating that you have to be 18 to take a test. In order to be certified he/she has to be 18.

John Buckman stated that if we go this direction, we would be holding testing for 16 years old. Tom Hanify is afraid the Board would be giving permission for people to do the wrong thing. The Marshal stated that the Board has had this discussion for as long as he has been on the Board. We have to come up with something. We started doing these because of the training centers. Tom Hanify explained that the training centers are well managed and documented supervision and liability. Oversight like DOE at the career centers. This was the logic that was used when we allowed this. In the fire service, you have minimum oversight over what is being done. This dept. can do anything they want to do and they do not have to have our permission to do it. They take on the liability for this. Greg Wyant explained that the Board was not comfortable doing this without the DOE oversight. How do we take care of this issue without discriminating against fire dept that do not have the oversight? Is there a place that we can accomplish this?

Mara Snyder suggested that you need a document saying that if you are having students that are requesting variances for this section, this is the criteria you have to meet. Use the criteria that you think the career centers meet and apply it to anyone whose student is requesting a

variance. If you have a FD that has an insurance policy that says if you do negligence, then ok. But if you establish neutral criteria and you apply it across the board, then ok, the students can apply and if the location does not meet the criteria, then the students most likely would not get a variance approved. Publish the criteria that you feel meets the DOE oversight.

Tom Hanify asked why the Board needs to do this when there is a career center in every other county in the state maybe more. The entity can go there and say we want to teach this course under your umbrella. Mara Snyder stated that her concern is that there are no criteria anywhere. The Board keeps saying that we approve career center because they meet "this criteria" but nowhere do you list the criteria. There is nothing that a fire dept. can look at and say "ok, now I understand why we cannot get variances." John Buckman stated that he was supposed to write this "criteria list," and he did not get a chance to do it before the meeting. The criteria would be like the planning templates that he developed. This template specifies that you have to do the skills this way, you have to use these props, you can have this much span of control over what is happening, all these type of things.

Tom Hanify stated that the entity has criteria. The DOE allows these things to happen and they have an umbrella over that. They have liability at these functions such as C9. Why would we create a new set of rules when DOE already has this stuff? Marshal Greeson would like to go back to 1996 and find out why this was not a conflict, so if we granted these variances for more than 180 days, which we probably have, is it not possible that a lot of people would take a lot of different certifications, and then you would have more people under 18 applying for a lot of different certifications. The question is do we want to grant a variance for more than 180 days. Tom Hanify stated that we picked 18 years of age because somewhere some one decided that at 18 you were mature. I do not think we should blur the line of 18 years old. I know that fire dept.'s are allowing under 18 year olds to make entry at fire scenes.

Jim Campbell, Pike Twp FD. – To me this is like a solution in search of a problem. From everything that I see we are doing it right. We are sending them to career centers. I have been attending these meetings for a lot of years and I have not heard anything showing that there is an impact from not having the students attend career centers. I have not heard any fire dept stating that this is hurting my fire dept because I cannot be my own training institution.

Greg Wyant stated that after the meeting on June 19, he asked Steve Anderson and others on the volunteer side that were there, in all the time on the Board, we have seen one "seventeen year old testing request" from a fire dept and no one remembers seeing one before that. Why are there not more requests, we have not seen any in my 4 years there (except the one mentioned). Anderson- I have heard from depts. that they have guys that they would like to test, but they do not submit to the Board because we know what the Board's position is on this. I have tried to gauge how big of a deal this is, but you can't. No one is speaking up so there is no way to tell what impact this is having on the volunteers.

John Buckman stated that German Twp, has 16-17 year olds, at the fire dept, they do not do entry, they do all the other training, but they do not apply for certification until they are 18.

They put them on; put them through the training, because the law states they have to be trained. There are other depts. in the southwest corner that do this. We handle it ourselves. Greg Wyant stated that we are 30 minutes into this, and we are no closer to a solution. Barb Goble stated that the Board keeps going to the age of testing. According to Board rules, you cannot stop a 15 year old from testing. There is no restriction in our rules on this. What the subject should be is how long the Board is willing to extend the 180 days for the skills. Jim Campbell asked how old are the practicals before you do not think they are valid any more. Mara Snyder stated, that is the question. The Board is not giving anyone permission to do anything. What you are saying is that if we are going to allow anybody to get a variance, it does not matter who is doing the testing because there is no state or federal law that applies to testing these people. My concern is that we keeping talking about liability and responsibility and there is no difference between a teacher and a competent fire chief in oversight. If there is, the Board needs to make that clear. My concern as a lawyer is that they need to know what you're thinking when you look at the variance request, and if your response is that a Fire dept is not overseen by DOE therefore we are not extending test results because of this, then tell them that.

Tom Hanify; there is a difference between a teacher and a fire chief. A teacher is licensed through the state of Indiana. A fire chief is not licensed in any way shape or form (to qualify to be a Fire Chief). All it takes in Indiana to be fire chief, is 5 years of service. So there is a difference. We also have masters in administration as fire chiefs but this is not required at all to be a fire chief. We have the exception for career centers, we want to accommodate people, and the rules say you take the practicals before the written. Do we need to keep that in the rule or can we change the rule, for the career centers. Greg Wyant stated that there is something to the DOE oversight. Can we allow someone under 18 to take the practicals after the written and after they are 18. You avoid the liability that Tom is concerned about. This would allow for non DOE oversight locations; let them do all the stuff, but turn in the practicals when they are 18. This would allow 17 year olds to take the written test, and then when they are 18 to take the skills exam. In the past the Board has said with proper supervision we allow 17 year old to do this. Any career center can do this because they have the oversight. At the average fire dept, when the student is 17 ½ plus one day and then 179 days later I can take my practicals and be done. Let the person take the written test, and this would get the fire dept. a jump start. John Buckman stated that this would create a logistical problem. EMS states that you have to take the practicals within 1 year of the written and I would suggest that we model that, we would have to train the lead evaluators to do the things and submit the paperwork. Marshal Greeson, I take my written test at 17, I am out of high school because I graduated, what do I do to get my practicals? Tom Hanify, if you are in a career center, you can do all of this while you are in school at 17 years of age. When you turn 18, the career center would submit the paperwork so that you can get certified.

If you are at the Tom Hanify fire dept, you would allow the student to take the written test at 17 ½ , and within 180 days, he can take the skills and submit the documentation. This gives the FD the extra time to get this done.

John Buckman stated that if you do this for 17 year olds, then you should do it for all certifications. Let everyone take the written and then the skills. Do not change it just for 17 year olds. Mara Snyder stated that you are only giving the option to the training centers. You cannot take a 17 year old at the Tom Hanify fire dept and give them the skills; only career centers can do that.

Tom Hanify explained –

You have to be 18 to do the hands on practicals

Unless you are at a career center

Mara Snyder stated that you are only doing this at career centers and nothing in the rules explains to the Tom Hanify Fire dept, why they cannot do this. Explain to them why if they are in a career center they can do it but if they are in a FD they cannot do it. What the Board is saying is you do not want them to do it, is because they do not have the DOE oversight.

Then tell them that. Put it in a non rule policy document.

The only people that are going to be given consideration for variances to allow 17 year olds to take practical skills exams are those that meet the following criteria:

- Have DOE oversight

The rules should not discourage education. The reason that a 17 year old goes in and fights a fire is this Board. We need to encourage education and be consistent.

The Board needs to explain why a fire dept cannot test skills until the student is 17 ½ years old.

Marshal asked if there are OSHA laws, child labor laws, is there anything that prohibits them from doing the skills. No. There is no law that pertains to a student in training.

Then there is no difference between the 17 year old at the Tom Hanify FD and the 17 year old at a career center then anybody can test but you cannot get certification until they are 18.

So, why not be consistent with all of them. We, as a Board, are or are not going to grant a variance for more than 180 days. This is pretty simple.

Issue a non rule policy document that says: if you are testing under the oversight of the DOE your students may apply for a variance asking to be allowed to take the practical skills exam and have those tests counted prior to the age of 18. If you are not under the oversight of the DOE your students may apply for a variance but it is unlikely to be granted.

Career Centers would be asking for a variance from 1-1-12 (h)

Fire Dept would be asking for a variance from 1-1-12 (e)

John Buckman explained that per policy, if it is a district class, under 18 year olds are not allowed in the class.

Marshal Greeson stated that this will cause an issue with the VFD because they do not have DOE oversight. I do not know how difficult it would be for them to get this.

Greg Wyant explained that it would be up to the VFD to check this out.

Chris Johnson stated that maybe the Board should have a list of entities that would qualify as eligible to oversee this and on the list would be DOE and any other compatible office.

Tom Hanify stated that he would not have an issue with this.

Mara Snyder stated that any variance for this would be required to have information pertaining to the oversight agency and that agency would have the same criteria as DOE or substantially equivalent.

Greg Wyant asked what is the oversight that DOE gives? We need to find this out and that would be our requirement.

John Buckman stated that we need to establish criteria for everyone that teaches Firefighter I/II and mandatory.

Greg Wyant stated that we discussed this issue, there are many tentacles' to this, we have ideas, and now we need to think about everything discussed and start putting something in place for this issue.

In August when career schools start up, they do not file for a variance for 17 year olds to test. They are asking for a variance for extension of the 180 days for the skills. 655 IAC 1-1-12 (h) unless they are a VFD and they would be asking for a variance for 655 IAC 1-1-12 (e) which would allow them to take the written before the skills.

On the web site put a FAQ, this would then explain what they need to apply for.

Draft FAQ's and non rule policy

- I am with a training institution/ Career center you must would apply for a variance for extension of the 180 days for the skills. 655 IAC 1-1-12 (h)
- If you are with a VFD you are asking for a variance for 655 IAC 1-1-12 (e) which would allow them to take the written before the skills.
- Any one applies for a variance under (h) the testing entity must meet the following criteria.....

Marshal Greeson stated that at some point we need to make the DOE aware that FD's are going to be asking for information, and the Governors counsel need to be aware of this.

17. Goble/Buckman- 655 IAC 1-1-12 Application and testing procedures; appeals; challenges; reciprocity. Specifically section (i) (1-3), which reads:

(i) Practical skills examination procedures shall be as follows:

(1) All examinations shall be graded on a pass/fail basis.

(2) A photo identification must be provided by the applicant along with all prerequisite documentation.

(3) Once all admission requirements have been verified, the individual will be allowed to take the examination.

Does this mean that all prerequisite must be completed prior to the skills examination?

This item will be on the August agenda.

